



Docket No.: 2038-313

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	: : EXPEDITED PROCEDURE
Tomoko SUGITO	: : Response under 37 CFR 1.116
	: Confirmation No. 8614
	:
U.S. Patent Application No. 10/733,578	: Group Art Unit: 3761
	:
Filed: December 12, 2003	: Examiner: MELANIE JO HAND
For: DISPOSABLE DIAPER	

PRE-APPEAL BRIEF REQUEST FOR REVIEW

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COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria VA 22313-1450

Sir:

This paper is submitted in reply to the Final Office Action mailed *July 27, 2006*.

Applicants respectfully request review of the final rejections of claims 6-10 and 12-21 as manifested in the Final Office Action. No amendments are being filed with this request. (The after-final Amendment filed November 27, 2006, has not been entered as indicated by the Examiner in the Advisory Action mailed December 19, 2006)

This request is being filed with a Notice of Appeal in compliance with 37 CFR 41.31 and the fee set forth in 37 CFR 41.20(b)(1).

The review is requested for the reasons stated on the attached sheets.

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REASONS

The following clear errors are found in the Examiner's rejections.

1. The 35 U.S.C. 102 rejection of claim 6 as being anticipated by *Lavon* is clearly erroneous, because the reference fails to teach or disclose all limitations of the rejected claim.

1.1. In particular, the Examiner has agreed that the reference does not teach or disclose the claimed liquid pervious layer that covers upper and lower surfaces of the absorbent core as recited in lines 6-8 of claim 2 from which claim 6 depends. See also the Interview Summary dated November 6, 2006.

1.2. The reference also fails to teach or disclose the limitations recited in claim 6. See the "Remarks" section of the November 27, 2006 Amendment, at page 6, the last four paragraphs, which is/are incorporated by reference herein.

Accordingly, Applicants respectfully submit that the anticipatory rejection of claim 6 and claims 7-10 depending therefrom is clearly erroneous and should be withdrawn.

2. The 35 U.S.C. 103 rejection of independent claim 12 as being obvious over *Lavon* is clearly erroneous, because the reference fails to teach or suggest all limitations of the rejected claim. See the "Remarks" section of the November 27, 2006 Amendment, at page 7, the first four paragraphs, which is/are incorporated by reference herein.

Accordingly, Applicants respectfully submit that the obviousness rejection of claim 12 and claims 13-21 depending therefrom is clearly erroneous and should be withdrawn.

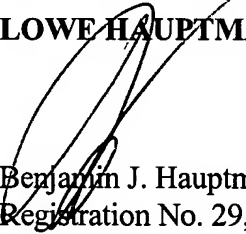
Withdrawal of the final rejections of claims 6-10 and 12-21 in view of the above is believed appropriate and therefore respectfully requested.

Of particular note, Applicants respectfully submit that the Examiner's decision to deny entry of the November 27, 2006 Amendment is improper. The Amendment, contrary to the Examiner's statement found in the Advisory Action, requires no further search and/or consideration, because the scope of claim 6 rewritten in independent form has not been changed. Issuance of a Supplemental Advisory Action indicating that the November 27, 2006 Amendment will be entered on appeal is believed appropriate and therefore respectfully requested.

To the extent necessary, a petition for an extension of time under *37 C.F.R. 1.136* is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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Date: December 27, 2006
BJH/KL/cjf



Dear Nancy:

You are receiving this email because you or someone who shares your email address enrolled in a Humana health plan.

Thank you for choosing Humana. We received your enrollment application, and we'll notify you when your application has been approved. Then you'll receive your Humana ID card in the mail in a few days.

If you need to access your benefits after your effective date but before you receive your ID card, you will need to produce proof of your Humana plan membership status. Proof that you have applied for Medicare health benefits with Humana include:

- A letter we will send via postal mail confirming your plan membership
- Your copy of the enrollment application
- An enrollment confirmation number if you enrolled online or by phone

Don't be concerned if you don't have all of these items. Having one should be enough to assist your provider or pharmacy in accessing your benefits.

If you have both Medicare and Medicaid or have been approved for the low-income subsidy (extra help paying for prescriptions), bring a copy of your yellow automatic enrollment letter from Medicare, a Medicaid card, an approval letter from the Social Security Administration, or other proof that you qualify for extra help. Let your pharmacist know you've applied for Humana Medicare benefits.

If you have difficulties accessing the correct prescription coverage, as a last resort, you may pay out-of-pocket for your prescription. In this case, save your receipt and Humana will reimburse you.

After you receive your Humana ID card, you can access health care information on **MyHumana**, your personal, password-protected home page where you can check your claims, look up providers, find discounts, learn about your drugs, and more.

If you would like to hear a recorded message about your enrollment application, just call 888-476-9451 any time. Thanks again for giving us the opportunity to serve your health care needs.

Please do not respond to this automated message.

Medicare-approved HMO, PPO and PFFS plans available to anyone enrolled in Part B and entitled to Part A of Medicare through age or disability who continues to pay Medicare applicable premiums.

A Medicare approved Prescription Drug Plan available to anyone enrolled in Part B and/or entitled to Part A of Medicare through age or disability who continues to pay Medicare applicable premiums.

Dear Nancy:

You are receiving this email because you or someone who shares your email address enrolled in a Humana health plan.

Thank you for choosing Humana. We received your enrollment application, and we'll notify you when your application has been approved. Then you'll receive your Humana ID card in the mail in a few days.

If you need to access your benefits after your effective date but before you receive your ID card, you will need to produce proof of your Humana plan membership status. Proof that you have applied for Medicare health benefits with Humana include:

- A letter we will send via postal mail confirming your plan membership
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If you have difficulties accessing the correct prescription coverage, as a last resort, you may pay out-of-pocket for your prescription. In this case, save your receipt and Humana will reimburse you.

After you receive your Humana ID card, you can access health care information on [MyHumana](#), your personal, password-protected home page where you can check your claims, look up providers, find discounts, learn about your drugs, and more.

If you would like to hear a recorded message about your enrollment application, just call 888-476-9451 any time. Thanks again for giving us the opportunity to serve your health care needs.

Please do not respond to this automated message.

Medicare-approved HMO, PPO and PFFS plans available to anyone enrolled in Part B and entitled to Part A of Medicare through age or disability who continues to pay Medicare applicable premiums.

A Medicare approved Prescription Drug Plan available to anyone enrolled in Part B and/or entitled to Part A of Medicare through age or disability who continues to pay Medicare applicable premiums.

If you would like to choose another way for us to communicate with you, register or log in to **MyHumana** and select "Change MyCommunications Preferences" under MyCommunications.

Humana strives to ensure your privacy and confidentiality. To learn more about how Humana protects your confidentiality, please see our complete **Internet Privacy Statement** and our **Privacy Practice Statement**.

If you do not want us to contact you by e-mail, you may **unsubscribe** from our online community.

For additional information, please visit our Website at **www.humana.com**.

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